IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.2996 OF 2005

ABB Ltd. & Anr. ... Petitioners

Versus.

State Bank of India & Ors. ... Respondents.

Shri Virendra Tulzapurkar i/b Udwadia & Udeshi for the Petitioners.
Shri P.K.Samdani i/b Harshad & Co. for the Respondent Nos.1 and 2.
Mr.Gaurav Joshi i/b Mulla & Mulla for Respondent No.3

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.
DATED : JANUARY 18, 2006.

P.C.:

1. Heard Mr.Tulzapurkar in support of this Petition. Mr.Samdani appears for Respondent Nos.1 and 2. Mr. Joshi appears for Respondent No.3. The Petition seeks to challenge the letter of intent issued by the Respondent Nos.1 and 2 to Respondent No.3 with respect to the work which is to be carried out in the nature of dismantling the existing electrical system and installing the new one. The case of the Petitioner is that there were three parts of the work which was covered under the tender document viz. installation of new electrical system, dismantling the existing system and then resale price was to be offered for dismantling system. The case of the Petitioner is that the bid given by the first Petitioner was the lowest one at Rs.8.60 crores as against that of Respondent No.3 which was Rs.8.68 crores. It is, therefore prayed by the

Petitioner that this letter of intent issued to Respondent No.3 be cancelled and the Respondent No.1 be directed to accept the bid submitted by the Petitioner No.1.

2. A reply has been filed by the Deputy General Manager of the first Respondent-Bank. In paragraph 4 of the reply it has been stated that the quotation of the Petitioner No.1 was not for Rs.8,67,00,000/- but it was for Rs.8,80,46,373/-. It is submitted that the three items were to be totalled and figure is to be arrived at. That was also the bid given by the Petitioners. A rejoinder is filed by one Mr.Vaze, Regional Sales Head (Western Region) on behalf of the Petitioner No.1 and in paragraph 6 thereof the discussion between the parties has been quoted and it is submitted that the Petitioner No.1 was given to understand that the amount of Rs.10,00,000/- for resale price is to be subtracted and not to be added as done by the Petitioner. It is submitted that addition was done by the Petitioner by mistake and evaluation was expected to be done after correcting this mistake.

3. The first Respondent has gone by the bids given by the parties. The bid document of the Petitioner was considered by the first Respondent and what is stated in paragraph 6 of the rejoinder is an alleged oral statement which cannot be accepted to improve upon the

bid given by the Petitioner No.1 earlier. In the circumstances, the first Respondent cannot be faulted for adding the three items in as much as all of them were to be considered together to arrive at the proposal given by either of the parties. When considered that way, the bid given by the Petitioner No.1 was not lowest one but the bid given by the Respondent No.3, was. It came to be accepted. No reason to interfere. Petition is dismissed.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)